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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/079,008	02/19/2002	Hidefumi Yoshida	2803.66230	6667

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EXAMINER

PARKER, KENNETH

ART UNIT	PAPER NUMBER
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2871

DATE MAILED: 04/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary	Application No.		Applicant(s)	
	10/079,008		YOSHIDA ET AL.	
	Examiner		Art Unit	
	Kenneth A. Parker		2871	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 December 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-9 and 14-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3-9 and 14-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 14-16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

It is ambiguous whether it is each retarder which has zero negative birefringence or both retarders cumulatively have zero negative birefringence. For examining purposes, the examiner it is each retarder which has zero negative birefringence.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 1-5 and 7-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over by Clerc 4701028 in view of Clerc "Vertically aligned Liquid-Crystal Displays".

The Clerc reference shows in figure 4 claim 1 including a liquid crystal cell comprising a pair of substrates 19-20 and a liquid crystal layer 18 arranged between the pair of substrates; first and second polarizers 21-22 arranged on either side of the liquid crystal cell; a first retardation plate 24 arranged between the liquid crystal cell and the first polarizer and a second retardation plate arranged between the liquid crystal cell and the second polarizer 23; each of the first and second retardation plates having an optical axis in a plane parallel to the surfaces of the substrates and a retardation of substantially $\frac{1}{4}$ (see column 6, lines 44-55 which indicate a retardation of 150nm, which is in the range applicant lists as corresponding to substantially $\frac{1}{4}$ wave and is exactly a quarter wave for 600 nm which is in the visible spectrum), the optical axis of the first

retardation plate being perpendicular to the optical axis of the second retardation plate (see cover figure), the first and second polarizers having polarizing axes arranged at an angle of 45 with respect to the optical axes of the first and second retardation plates (also see figure), however lacking from the disclosure is the and the liquid crystal cell having a plurality of pixels arranged such that each pixel includes at least first and second regions in which an alignment of the liquid crystal in the first region is different from an alignment of the liquid crystal in the second region. The secondary reference indicates that a device of the same type as the primary reference can be aligned stably without rubbing by using the slit, which inherently produces two domains (left column page 759). As rubbing was known to be a problem, the avoidance of rubbing would have been recognized as a considerable benefit. The secondary reference is evidence that ordinary workers in the art would find a reason, suggestion or motivation to a slit, thereby producing two domains.

The Clerc reference shows Claim 2 including a liquid crystal cell comprising a pair of substrates and a liquid crystal layer arranged between the pair of substrates; first and second polarizers arranged on either side of the liquid crystal cell; a first retardation plate arranged between the liquid crystal cell and the first polarizer; a second retardation plate arranged between the liquid crystal cell and the second polarizer; each of the first and second retardation plates having an optical axis in a plane parallel to the surfaces of the substrates and a retardation of substantially $\lambda/4$, the optical axis of the first retardation plate being perpendicular to the optical axis of the second retardation plate; the first and second polarizers having polarizing

axes arranged at an angle of 45 with respect to the optical axes of the first and second retardation plates (these features are identified in the action above).

Claim 3, a liquid crystal display device according to claim 1 or 2, wherein at least a portion of the liquid crystal molecules are aligned in the azimuth except for 45 from the polarizing axes of the polarizers. Claim 4, a liquid crystal display device according to claim 1 or 2, wherein the liquid crystal of the liquid crystal cell is of a vertical alignment type, the liquid crystal cell includes a structure or a slit arranged on the electrode of at least one of the substrates, and a state of alignment of the liquid crystal molecules located on one side of the structure or the slit is different from a state of alignment of the liquid crystal molecules located on the other side of the structure or slit.

Claim 5 including the device according to claim 4, wherein liquid crystal molecules located on the structure or slit are aligned, accompanying a change in the azimuth upon application of voltage. Again, this is a functional description which should be inherently met by the reference.

Therefore also shown is claim 7 including a liquid crystal cell comprising the same as claim 1, wherein the liquid crystal cell including structures or slits arranged on or in an electrode of at least one of the substrates, a state of alignment of the liquid crystal molecules located on one side of the structure or the slit being different from a state of alignment of the liquid crystal molecules located on the other side of the structure or the slit; and a retardation in the plane of the retardation plate being not less than 120 nm and not more than 160 nm (met in accordance with the discussion above).

Not shown is claim 8 including the device according to claim 7, wherein an angle between the absorbing axis of the polarizer and the aligning direction or the inclining direction of liquid crystal molecules is not less than 50, and the contrast characteristic is symmetrical with respect to the horizontal direction. However, as the structure is the same as applicants, the functional characteristics should be met. Note MPEP 2112:

ONCE A REFERENCE TEACHING PRODUCT APPEARING TO BE SUBSTANTIALLY IDENTICAL IS MADE THE BASIS OF A REJECTION, AND THE EXAMINER PRESENTS EVIDENCE OR REASONING TENDING TO SHOW INHERENCY, THE BURDEN SHIFTS TO THE APPLICANT TO SHOW AN UNOBVIOUS DIFFERENCE.

Claim 6 is are rejected under 35 U.S.C. 103(a) as being unpatentable over Clerc 4701028 in view of Clerc "Vertically aligned Liquid-Crystal Displays" as applied above, and further in view of Koma JP 07-311383.

Claim 6 adds to a claim substantially that the at least one of the pair of substrates having electrically conductive linear structures which protrude with respect to a substantially flat surface of the electrode. The reference as modified above has a window, not linear conductive structures. Koma discloses a device with linear conductive structures that are above the plane of the electrodes (see the protrusion in the electrode of the cover figure). The linear structure is made by putting down a material under the electrode and thereby creating a portion that is higher than the rest of the electrode, and therefore is a linear strip that protrudes with respect to the substantially flat electrode surface. Koma indicates that their structure "provides a liquid crystal display device of a wide visual field angle by dividing display pixel and specifying orientation vectors of the liquid crystal directors." In fact Koma specifically

shows the structure as an alternative to the slit structures of the Clerc publication.

Therefore one of ordinary skill would have found the reason, suggestion or motivation for modifying the structure of Clerc as modified above for the above mentioned motivation

Such compensators were well known for improving viewing angle by compensating for the change in birefringence at off axis directions. Both references disclose such compensators, evidencing the well known status. Therefore it would have been obvious to one of ordinary skill, in the device of Clerc, to employ a negative birefringent film (or films) to compensate for the change in birefringence in off axis directions.

Claim 9 is are rejected under 35 U.S.C. 103(a) as being unpatentable over Clerc 4701028 in view of Clerc "Vertically aligned Liquid-Crystal Displays"as applied above, and further in view of Harris et al 5344916 and Arakawa et al 5189538.

Lacking from the disclosure is the negative birefringent compensator. Such compensators were well known for improving viewing angle by compensating for the change in birefringence at off axis directions. Both references disclose such compensators, evidencing the well known status. Therefore it would have been obvious to one of ordinary skill, in the device of Clerc, to employ a negative birefringent film (or films) to compensate for the change in birefringence in off axis directions.

Allowable Subject Matter

Claims 14-16 would be allowable if rewritten to overcome the rejection under 112 above as interpreted by the examiner.

The reason for the indication of allowable subject matter re claims 14-16 is the five plates as claimed as claimed to the retarders and particularly with the pair that each has zero negative birefringence.

Election/Restrictions

Applicant's election without traverse of group 1 in Paper No. 12/21/2004 is acknowledged.

Response to Arguments


Applicant's arguments with respect to claims have been considered but are moot in view of the new ground(s) of rejection. Applicant correctly argued that the Clerc reference did not show the claimed structure, and to accomodate this deficiency as second referece also by Clerc has been provided.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kenneth A. Parker whose telephone number is 571-272-2298. The examiner can normally be reached on M-F 10:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert H. Kim can be reached on 571-272-2293. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Kenneth A Parker
Primary Examiner
Art Unit 2871